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MONTANA LEGISLATIVE HISTORY

Chapter 579 ~~19~~ 2003

Bill H _____ S 370 Original bill & history ✓C

H. Committee on LOCAL GOV'T			S. Committee on LOCAL GOV'T		
Hearing Date(s) + EXEC. ACTION	4/1	X C	Hearing Date(s)	2/20	X C
		C	EXEC. ACTION	2/25	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Bill Draft Number: LC0577
Bill Type - Number: SB 370
Short Title: Clarify responsibility for medical expenses in detention centers
Primary Sponsor: Kelly Gebhardt

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 88

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/05/2003			
(S) Signed by Governor	05/05/2003			
(S) Transmitted to Governor	05/02/2003			
(H) Signed by Speaker	05/02/2003			
(S) Signed by President	05/01/2003			
(S) Returned from Enrolling	05/01/2003			
(C) Sent to Printing	04/29/2003			
(C) Sent to Printing	04/29/2003			
(C) Sent to Printing	04/26/2003			
(S) Sent to Enrolling	04/26/2003			
(H) Returned to Senate Concurred in Governor's Proposed Amendments	04/26/2003			
(H) 3rd Reading Governor's Proposed Amendments Concurred	04/26/2003	90	10	
(H) Scheduled for 3rd Reading	04/26/2003			
(H) 2nd Reading Governor's Proposed Amendments Concurred	04/25/2003	91	8	
(S) Transmitted to House for Consideration of Governor's Proposed Amendments	04/25/2003			
(S) 3rd Reading Governor's Proposed Amendments Concurred	04/25/2003	49	0	
(H) Scheduled for 2nd Reading	04/25/2003			
(S) Scheduled for 3rd Reading	04/25/2003			
(S) 2nd Reading Governor's Proposed Amendments Concurred on Voice Vote	04/24/2003	49	0	
(S) Motion Carried	04/24/2003			
(S) Returned with Governor's Proposed Amendments	04/24/2003			
(S) Motion Carried	04/24/2003			
(S) Scheduled for 2nd Reading	04/24/2003			
(S) Scheduled for 2nd Reading	04/24/2003			
(S) Returned with Governor's Proposed Amendments	04/22/2003			
(S) Transmitted to Governor	04/17/2003			

(H) Signed by Speaker	04/17/2003			
(S) Signed by President	04/16/2003			
(S) Returned from Enrolling	04/15/2003			
(C) Sent to Printing	04/14/2003			
(S) Sent to Enrolling	04/12/2003			
(S) 3rd Reading Passed as Amended by House	04/12/2003	49	0	
(S) Scheduled for 3rd Reading	04/12/2003			
(S) 2nd Reading House Amendments Concurred on Voice Vote	04/11/2003	47	0	
(S) Scheduled for 2nd Reading	04/11/2003			
(H) Returned to Senate with Amendments	04/05/2003			
(H) 3rd Reading Concurred	04/05/2003	71	27	
(H) Scheduled for 3rd Reading	04/05/2003			
(H) 2nd Reading Concurred	04/04/2003	87	12	
(H) Scheduled for 2nd Reading	04/04/2003			
(C) Sent to Printing	04/02/2003			
(H) Committee Report--Bill Concurred as Amended	04/02/2003			(H) Local Government
(H) Committee Executive Action--Bill Concurred as Amended	04/02/2003	16	0	(H) Local Government
(H) Hearing	04/01/2003			(H) Local Government
(H) Referred to Committee	03/07/2003			(H) Local Government
(H) First Reading	03/07/2003			
(S) Revised Fiscal Note Requested	03/06/2003			
(S) Transmitted to House	02/28/2003			
(S) 3rd Reading Passed	02/28/2003	50	0	
(S) Scheduled for 3rd Reading	02/28/2003			
(S) 2nd Reading Passed on Voice Vote	02/27/2003	49	0	
(S) Scheduled for 2nd Reading	02/27/2003			
(C) Sent to Printing	02/26/2003			
(S) Committee Report--Bill Passed as Amended	02/26/2003			(S) Local Government
(S) Committee Executive Action--Bill Passed as Amended	02/26/2003	10	1	(S) Local Government
(S) Hearing	02/20/2003			(S) Local Government
(S) Fiscal Note Printed	02/20/2003			
(S) Fiscal Note Signed	02/19/2003			
(S) Fiscal Note Received	02/18/2003			
(C) Introduced Bill Text Available Electronically	02/11/2003			
(S) Referred to Committee	02/11/2003			(S) Local

	Government
(S) First Reading	02/11/2003
(S) Fiscal Note Requested	02/11/2003
(S) Introduced	02/11/2003
(C) Draft Delivered to Requester	02/10/2003
(C) Draft Ready for Delivery	02/08/2003
(C) Draft in Assembly/Executive Director Review	02/08/2003
(C) Draft in Final Drafter Review	02/06/2003
(C) Draft in Input/Proofing	02/06/2003
(C) Draft in Legal Review	02/05/2003
(C) Draft Back for Redo	02/01/2003
(C) Draft Ready for Delivery	01/06/2003
(C) Draft in Assembly/Executive Director Review	01/03/2003
(C) Draft in Final Drafter Review	01/03/2003
(C) Bill Draft Text Available Electronically	01/02/2003
(C) Draft in Input/Proofing	01/02/2003
(C) Draft to Drafter - Edit Review [SAB]	01/02/2003
(C) Draft in Edit	12/31/2002
(C) Draft in Legal Review	12/31/2002
(C) Draft Back for Redo	12/31/2002
(C) Draft in Legal Review	12/31/2002
(C) Draft Back for Redo	12/31/2002
(C) Draft to Drafter - Edit Review [SAB]	12/31/2002
(C) Draft in Edit	12/31/2002
(C) Draft in Legal Review	12/31/2002
(C) Draft to Requester for Review	12/17/2002
(C) Fiscal Note Needed	10/15/2002
(C) Draft Request Received	10/15/2002

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Gebhardt	Kelly
Drafter	Kurtz	Leanne
Primary Sponsor	Gebhardt	Kelly

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Corrections		Simple	CORR
County Finance (see also: Local Finance)		Simple	CTYF
State Finance (see also: Appropriations; Taxation Subjects)		Simple	STF

Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: N
Session Law Ch. Number: 579
DEADLINE
Category: General Bills
Transmittal Date: 02/28/2003
Return (with 2nd house amendments) Date: 04/05/2003

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	05-MAY-03	

Senate BILL NO. 370

INTRODUCED BY Kelly Gebhardt
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE ABLE TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) Each detention center shall comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the inmates may be injured or endangered, the detention center administrator shall remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

~~(4) (a) If in the opinion of the detention center administrator an inmate under the administrator's jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the arresting agency when the arresting agency is not the county in which the inmate is confined, except as provided in 7-32-2245 or subsection (4)(b) of this section.~~

~~(b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county, except as provided in 7-32-2245. If the department of corrections is the arresting agency and the inmate is a probation violator, the expense must be paid by the county in which the district court that retains jurisdiction over the inmate is located, except as provided in 7-32-2245.~~

~~(c) The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved in accordance with 7-32-2245.~~"

Section 2. Section 7-32-2245, MCA, is amended to read:

"**7-32-2245. Payment of confinement and medical costs by inmate.** (1) An inmate found by the sentencing court to have the ability to pay is liable for the costs, including actual medical costs, of the inmate's confinement in a detention center. The rate for confinement costs must be determined in accordance with 46-18-403. Confinement costs, other than actual medical costs, must be ordered by the court and must be paid in advance of confinement and prior to payment of any fine.

(2) ~~An~~ If, in the opinion of the detention center administrator, an inmate requires medical treatment, the inmate is responsible for ~~the actual costs of medication, medical services, or hospitalization while the inmate is detained in a detention center. Inability to pay may not be a factor in providing necessary medical care for an inmate. This section does not restrict an inmate's right to use a third-party payor~~ medical costs associated with:

(a) preexisting conditions;

(b) self-inflicted injuries while in custody;

(c) injuries incurred while in custody if the injuries are not the result of negligent or intentionally torturous acts committed by the detention center administrator or a member of the administrator's staff;

(d) injuries incurred during the commission of a crime or while unlawfully resisting arrest or attempting to avoid an arrest; and

(e) any other injuries or illnesses that are not the responsibility of other entities as provided in 7-32-2242(3) and [section 3].

(3) If an inmate is found to be able to pay for the inmate's medical costs, the health care provider who treats the inmate shall collect the cost of the treatment from the inmate or the inmate's third-party payor.

(4) Inability to pay may not be a factor in providing necessary medical care for an inmate.

(5) This section does not restrict an inmate's right to use a third-party payor.

(6) If a city or town is the arresting agency and commits a person to the detention center of the county in which the city or town is located, the inmate is responsible for the inmate's medical expenses."

NEW SECTION. **Section 3. Payment of medical costs by entities other than inmate.** (1) The detention center administrator shall forward to the appropriate arresting agency all charges for medical treatment

for which the agency is responsible.

(2) When the inmate is in the custody of a county detention center and the detention center administrator determines that the inmate requires medical treatment, the county or the arresting agency is responsible for medical costs associated with:

(a) conditions that are not preexisting;

(b) injuries incurred by the inmate:

(i) while in the custody of the detention center if the injuries are the result of an accident, an assault by another inmate, or negligent or intentionally torturous acts committed by the detention center administrator or the administrator's staff;

(ii) during the arrest of the inmate by the sheriff or the sheriff's staff if the injuries were not incurred while unlawfully resisting arrest; or

(iii) while on a work program or while the inmate is performing duties assigned by the detention center administrator or the administrator's staff;

(c) infections or contagious or communicable diseases that the inmate contracts while in the custody of the detention center; or

(d) medical examinations that are required by law or court order unless the order provides otherwise.

(3) In order to determine which entity is responsible for medical charges that are not the responsibility of the inmate, the following applies:

(a) If the arresting agency is a law enforcement agency whose jurisdiction is limited to the county boundaries of the county or a municipality in the county where the detention center is located, then the county is responsible.

(b) If the arresting agency is a law enforcement agency with statewide jurisdiction or whose jurisdiction is a county or municipality in a county other than the county where the detention center is located, then the arresting agency is responsible.

(4) For the purposes of 7-32-2245 and this section, "preexisting condition" means an illness or condition that began or injuries that were sustained before a person was in the custody of county officers.

NEW SECTION. **Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 7, chapter 32, part 22, and the provisions of Title 7, chapter 32, part 22, apply to [section 3].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

- END -

FISCAL NOTE

Bill #: SB0370 **Title:** Clarify responsibility for medical expenses in detention centers

Primary Sponsor: Gebhardt, K **Status:** As Introduced

Kelly Gebhardt — Sponsor signature — Date

Chuck Swysgood — Chuck Swysgood, Budget Director — 2/18/03 — Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	($185,716)	($185,716)
General Fund	$21,263	$21,263
Revenue:		
General Fund	$0	$0
Net Impact on General Fund Balance:	$164,453	$164,453

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☐ Significant Long-Term Impacts
- ☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Justice

1. If the courts follow the provisions proposed in the bill, the result would be less general fund money being spent on prisoner per diem.
2. The Montana Highway Patrol (MHP) is appropriated $928,582 to pay for prisoner confinement and medical costs in FY 2003.
3. MHP arrests a different type of population than the Department of Corrections.
4. Therefore, MHP assumes 20 percent of those incarcerated will have the ability to pay and the general fund will save $185,716 per year.

Department of Corrections

5. The medical costs of an offender arrested by the Department of Corrections who is a probation violator will no longer be paid by the county in which District Court retains jurisdiction during the time from arrest to court revocation.
6. There are approximately 650 offenders of this type arrested by the department annually.
7. The department assumes that out of this type of population, none of the offenders will have the ability to pay.

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8. The time from arrest to disposition in District Court is estimated as follows: 50 percent or 325 offenders will stay four days; 25 percent or 163 offenders will stay 16 days; and 25 percent or 162 offenders will stay 35 days.
9. Medical costs are estimated at $2.22 per day for offenders in this category.
10. Estimated costs calculation: 325 x $2.22 x 4 = $2,886; 163 x $2.22 x 16 = $5,790; 162 x $2.22 x 35 = $12,587; Total = $21,263 per year.

FISCAL IMPACT:

	FY 2004 Difference	FY 2005 Difference
Department of Justice		
Highway Patrol Division (13)		
Expenditures:		
Operating Expenses	($185,716)	($185,716)
Funding of Expenditures:		
General Fund (01)	($185,716)	($185,716)
Department of Corrections		
Contract Beds (03)		
Expenditures:		
Operating Expenses	$21,263	$21,263
Funding of Expenditures:		
General Fund (01)	$21,263	$21,263
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	$164,453	$164,453

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JOHN C. BOHLINGER**, on February 20, 2003 at 3:30 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. John C. Bohlinger, Chairman (R)
Sen. John Esp, Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Brent R. Cromley (D)
Sen. Jim Elliott (D)
Sen. Kelly Gebhardt (R)
Sen. Bill Glaser (R)
Sen. Rick Laible (R)
Sen. Jeff Mangan (D)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	SB 399, 2/17/2003; SB 406, 2/17/2003; SB 370, 2/12/2003
Executive Action:	SB 426, SB 293, SB 399, SB 406

SENATOR MCGEE said he knew he had forgotten to mention that. He said under 76-3-207 there are other exemptions to the subdivision and patting act. He said you would still have to file a certificate of survey and show the parcel. He said the classic case would be a parcel created for agricultural purposes. He said they were not reviewed by local county planning board, and is also exempt from review by the sanitation and subdivision act because there are restrictions from its use. He said they were specifically talking about defining a road track for example. He said there was not anything under current law to file that survey. He said there could also be a utility sighting that does not require sewer or water so there is an exemption from that review as well. He hoped this was a catch all.

SENATOR WHEAT said he was focused on this because in Gallatin County there seemed to an ongoing battle between the commissioners and people who want to subdivide family divisions. He thought this language might be broad enough that it might open doors that were not intended to be open.

SENATOR MCGEE replied he trusted **Senator Wheat** to come up with language to amend the bill. He said it was not his intent to create an avenue for further evasion of the act. He said what they were trying to say was non-residential sites not requiring sewer or water.

Closing by Sponsor:

SENATOR MCGEE said he had closed.

HEARING ON SB 370

Sponsor: SENATOR KELLY GEBHARDT, SD 4, Roundup

Proponents:

Dennis McCave, Yellowstone County Sheriff
Gordon Morris, MT Association of Counties
Alec Hansen, League of Cities and Towns
Mike McMeekin, Missoula County Sheriff
Kent Funyak, Cascade County Sheriff
Leo Gallagher, Lewis and Clark County
Don Hargrove, Gallatin County
John Ostlund, Yellowstone County
Dan O'Fallon, Cascade County Sheriff

Opponents:

Pat Melby, MT Medical Association
John Flink, MHA An Association of MT Health Care Providers
Kathy Kenyon, Deaconess Billings Clinic
Tom Ebzery, St. Vincents Healthcare, Holy Rosary Healthcare, St. James Healthcare

Opening Statement by Sponsor:

SENATOR JEFF MANGAN, presented the bill in **SENATOR GEBHARDT'S** absence. He said detention costs and inmate medical costs had been an issue for counties and local governments for some time. He said this bill attempted to address that. He said he would not stand there and proport to them everything the bill did, even though he was familiar with the subject. He believed there were more than enough proponents that could discuss the benefits of the bill and the opponents could address the negatives.

Proponents' Testimony:

Dennis McCave, Yellowstone County Sheriff, submitted written testimony. **EXHIBIT(los38a02)**

Gordon Morris, MT Association of Counties said this bill was brought to you courtesy of MACO, he pointed out that if this bill were law today, the state general fund would recoup approximately $165,000 dollars a year with the cost savings of the Montana Highway Patrol alone. He thought that was a significant issue. He said people were ending up in jail and the county was responsible for paying for their health care. He maintained if that same person was not in jail, that person would have to cover his own costs or they would be picked up by medicaid or medicare. He did not think that just because someone was arrested that should change. He thought the bill was proper, and he pointed out the savings. He asked for their favorable consideration.

Alec Hansen, League of Cities and Towns said that people that live in cities pay taxes for the county jail. He maintained that if the bill saved counties money, it would save city taxpayers money. He wanted to inform the committee that they had discussed an amendment with the sponsor and that he had agreed with it.

Mike McMeekin, Missoula County Sheriff said he supported what **Captain McCave** had stated so eloquently. He said the bill provided an adequate and appropriate balance between their need to take care of the health care issues of people incarcerated in their jails but also their accountability to their taxpayers. He also wanted to be on record in support of the amendment.

Kent Funyak, Cascade County Sheriff submitted written testimony. **EXHIBIT(los38a03)**

Leo Gallagher, Lewis and Clark County said they were in support of the bill for all the reasons stated. He said often they make decisions to let someone out who should not be on the street because they can't pay there medical bills. So he maintained it was a public safety issue as well.

Don Hargrove, Gallatin County said they wanted to be on record in support of the bill.

John Ostlund, Yellowstone County said they wanted to express support from the Yellowstone County Commission for the bill.

Dan O'Fallon, Cascade County Sheriff gave the committee some statistics. He said currently they had 144 inmates and 44 of them had pre-existing conditions that require prescriptions, that total $3500 a month. ***{Tape: 2; Side: A}*** He said he was in great support of SB 370.

Kathy Frame, Flathead County Sheriff said they would like to support the bill. She said in the past 3 years there medical budget had gone from $85,000 to $180,000 a year. She thought that was the bottom line for the taxpayers.

Opponents' Testimony:

Pat Melby, MT Medical Association said they were opposed to the bill in it's present form. He said they were certainly not opposed to the idea that an incarcerated individual who can pay for their healthcare should do so. He said their problem with the bill was on page 2, lines 22 and 23. He said that clause requires that if the inmate was able to pay, the healthcare provider has to chase the inmate down for payment. He said that created a problem. He said some physicians had told him that if they have to chase down payments they would not provide their services to the county any longer. Consequently there would be no primary care for these individuals and they would end up in hospital emergency rooms. He said that with the deletion of those two lines the that this would be a good bill.

John Flink, MHA An Association of MT Health Care Providers, said they were in opposition to the bill. He said they were not opposed to the concept, but this bill gave the illusion of making prisoners responsible for making their payments when in fact the real impact would be to increase the uncompensated care that hospitals already provide in Montana.

The problem that this bill attempts to address is one that has been around for some time. If a court has determined that a person has the resources to personally pay for the medical treatment the county may collect those costs already. He said most prisoners are often unable to hold a regular job, and don't have the money to pay for private health insurance, and medicare and medicaid are not an issue. In this kind of situation if the county doesn't pay the burden falls on the facilities. He liked the concept but said they needed to be careful how they made prisoners pay for their own healthcare.

Kathy Kenyon, Deaconess Billings Clinic said they had been negotiating for about the past 14 months over payments for prisoners from the county detention center. She said in 2002 the county admits owing the clinic about $163,000. She believed that was part of the reason for this bill. She said Yellowstone County was strapped and would rather not pay for most of the medical expenses of the county prisoners. She maintained they were sympathetic to the county detention centers economic woes, but the Clinic was also in the red right now. She said bad debt alone would be over 16 million dollars this year. She understood the problems of the county not having enough money but maintained the clinic did not have enough money either. She said the basic policy question was who should pay for detention center prisoners who do not have the resources to pay for themselves. She said if they had the resources to pay for themselves, then under current law the county could collect from them. She said if the prisoners medical bills were not paid for by the county they become bad debt. She said that would lead to cost shifting, which would increase the prices to local employers. She asserted that ultimately this bill increased health care bad debt and resulted in higher charges to local government and private employers. She did not think that was good public policy. She said the due process clause of both the Montana and US constitutions required that the detention centers feed and procure needed medical care. She said when you provide services you expect to be paid. She said you can not expect for private non-profit health care providers to absorb the costs of the medical expenses for the people who have been detained in prisons.

Tom Ebzery, St. Vincents Healthcare, Holy Rosary Healthcare, St. James Healthcare said he opposed the bill for many of the reasons given.

Questions from Committee Members and Responses:

SENATOR RICK LAIBLE asked **Mr. Ebzery** if there was someway to collect this money without having to place the healthcare providers on the hook.

Tom Ebzery thought the counties had probably attempted to recover their payments and had come up short, and would rather put the oweness on the provider to collect that. He maintained the county should be the collector not the provider.

SENATOR WHEAT asked **Gordon Morris** if he knew how many inmates across the state on an average basis have insurance coverage.

Gordon Morris replied he did not have that information. He said he would be happy to try find it.

SENATOR WHEAT said maybe that was to broad. He asked on a percentage basis how much of inmate medical expenses are paid by the inmates personal insurance and how much is paid by the county.

Gordon Morris said there had been a limited number of cases where a third party provider has paid, but they were very few. He said it was an insignificant figure of those who actually have insurance that can be gone after.

SENATOR WHEAT said in effect they were shifting the costs from the county to the medical provider.

Gordon Morris replied yes you could consider it a cost shift. He said whatever way you looked at it, the taxpayers were paying for it.

SENATOR WHEAT said in the act of balancing who gets to pay, did he think it was more fair that the healthcare providers pay or more fair to spread it out across all the taxpayers.

Gordon Morris responded that if this person was not incarcerated and showed up in the emergency room, who would pay for it.

SENATOR JOHN ESP asked **Dennis McCave** when someone comes into the jail and needs medical attention, did they give the bill to the court, and the court says they pay the bill as part of the fine or how did they collect it now.

Dennis McCave said section one allows for the court in their sentencing to have them pay full costs of incarceration, including medical costs. He said what they had been doing, when they receive invoices they evaluate whether they were self inflicted or pre-existing, if they were they return them to the

hospital. If they have an accident or contract an illness while incarcerated the county pays for those costs.

SENATOR ESP asked how they collected the money for an injury or illness that occurred while incarcerated if the inmate had the ability to pay.

Dennis McCave said most of the time they don't, and he did not have the money to hire a staff to do investigative and billing services in that respect, so they absorb the costs of those who are injured inside the facility.

SENATOR ESP asked if they absorb the costs for some other reason than injuries.

Dennis McCave replied they did.

SENATOR ESP asked **Kathy Kenyon** if what they had just heard from **Dennis McCave** was an accurate reflection.

Kathy Kenyon said that in 1995 **Senator Maxwell** sent Deaconess Clinic a letter that said based upon his interpretation of the law at the time they would no longer pay for county detention center inmates. She said at that point the Billings staff accepted that. She said in 2001 the CFO asked if that was in fact existing Montana law and it was not. In 1997 the Attorney General had issued an advisory opinion making it very clear that the counties were responsible for paying the medical costs of detainees in the county detention center. At that point they approached the county and attempted to collect. She said the county went back and got a follow up letter from the Attorney General that did reiterate the county detention center was responsible for the charges. She said during the period of time when they were accepting the counties position, what happened was that became bad debt. She estimated that they wrote off about half-million to a million dollars during 1995 and 2001.

SENATOR ESP said during the time that they county was not paying, you absorbed the costs of all pre-existing and self inflicted injuries and the county paid you for other things.

Kathy Kenyon said during that period of time the payments received from the county were extremely modest. She said overwhelmingly the expenses for the prisoners in the detention center fall into the categories of pre-existing conditions, self inflicted wounds, or injuries that occur as a result of the inmates own actions.

SENATOR ESP asked if serious mental illness fell under pre-existing conditions in this bill

Kathy Kenyon said certainly serious mental illness did fall under pre-existing conditions.

SENATOR SQUIRES asked how long the average stay of an inmate was.

Dennis McCave said it was deceiving to give a number from Billings. He said the average stay in Yellowstone County was 18 days. He said they processed about 8,000 prisoners a year. He said there was a core of inmates that stayed anywhere from six months to a year and half. He said another third ran between thirty and ninety days, and the rest filtered through quite quickly.

SENATOR SQUIRES asked if they had a problem in the area of mental health, relating to drug problems where they had gone off their medication because it wasn't paid for.

Dennis McCave said that was an extremely common occurrence in all facilities.

SENATOR SQUIRES asked if he did anything with negotiations for wages within his facility. She asked if he understood what the lady from the hospital was saying about the cost shift.

Dennis McCave replied yes he did. He said it was his perspective that they operated under this system for the past six years, and he thought there had not been a lot of suffering on the part of the healthcare facility in Billings. He thought they had actually expanded and flourished. He said they were better equipped to handle this sort of issue, and he thought the cost shift was comparative to their budget and his budget being very different.

SENATOR SQUIRES said she did understand that, but her concern was that it be spread out over a larger group of people that have a possibility of paying taxes. She said the people that go to jail are people as well, and she did not think they should get lower levels of health care.

{Tape: 2; Side: B}

SENATOR BRENT CROMLEY thought **Dennis McCave** had said there was some medical staff at the facility. He assumed that some medical treatment was provided in house.

Dennis McCave replied that was correct.

SENATOR CROMLEY asked if the cost of that treatment was billed to the inmate.

Dennis McCave replied no it was not at this time.

Closing by Sponsor:

SENATOR MANGAN thanked the proponents and opponents for a good hearing. He said although **Senator Gebhardt** was not there he would address a couple issues. He said it wasn't just a Billings issue. He maintained it was a Montana issue. He said the rising medical cost issues were just as real for detention centers as they were for hospitals and families. He said they needed to grapple with this and figure out how to keep the counties whole and still ensure that those inmates are getting the needed medical care, and not compromise public safety. He said it was a problem across the state, he did understand what the proponents were talking about with cost shifts, but this bill was a bill that the committee should spend some time on.

HEARING ON SB 372

Sponsor: **SENATOR RICK LAIBLE, SD 30, Victor**

Proponents:

Mike Knodel, Rocky Mountain Road Maintenance
John Hansen Jr, COP Construction Company
Bill McGuire, Blatinity Construction
Paul Thompson, Gilman Construction
Tim Crennen, JTL Group, Inc
Ray Becky, RoBec Contruction
Mike Newton, Fisher Sand and Gravel
Chris Hafer, H&H Contracting Inc.
Kenny Gray, Highway Specialties Inc.
G. Schmidt, Schellinger Construction
John Eyde, Pioneer Equipment
Ed Maronich, Maronich Construction
Lonnie Anderson, United Materials
Cary Hegreberg, MT Contractors Association
Byron Roberts, MT Building Industry Association
Carl Schweitzer, ASAM
Riley Johnson, NFIB
Webb Brown, MT Chamber of Commerce

Senate Local Govt. Comm.
Exhibit No. 2
Date Feb 20, 2003
Bill No. SB 370

Senate Bill 370
Senate Local Government Committee
February 20, 2003
Testimony of:
Dennis McCave

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE able TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING FOR IMMEDIATE EFFECTIVE DATE."

Chairman ~~Johnson~~ Bohlinger, members of the Committee, my name is Dennis McCave, I am a Captain with the Yellowstone County Sheriff's Office and presently the Commander of the Yellowstone County Detention Facility. I am asking for your support and passage of Senate Bill 370.

In 1995, I along with several other supporters, some who are here today, testified on then Senate Bill 208, a bill that as stated in it's title, was *"AN ACT GENERALLY REVISING THE LAWS RELATING TO CONFINEMENT COSTS FOR INMATES, **INCLUDING COSTS OF MEDICAL CARE**; PROVIDING THAT THE BOARD OF COUNTY COMMISSIONERS MAY ESTABLISH THE RATE OF DAILY CREDIT FOR CONFINEMENT COSTS; AMENDING SECTIONS 7-32-2222, 7-32-2242, 7-32-2245, AND 46-19-102, MCA; AND PROVIDING FOR IMMEDIATE EFFECTIVE DATE"*. A primary purpose of that Bill, was to place the ultimate responsibility of cost of medical care, on the individual, the inmate housed in local Detention Facilities and not deplete public safety dollars on what was often "pre-existing conditions" and often times self inflicted, manipulative injuries. This was expressed in the amended section of 7-32-2245 (2) which states, ***"An inmate is responsible for the actual costs of medication, medical services, or hospitalization while the inmate is detained in a detention center. Inability to pay may not be a factor in providing necessary medical care for the inmate. This section does not restrict an inmate's right to use a third –party payer"*** The specific intent of the bill was to reduce the liability of Counties, specifically Sheriff's Offices, to paying for "preexisting" and "self-inflicted" injuries, as testified to that day in 1995.

After the passage of the Senate Bill 208, Sheriff Maxwell of Yellowstone County issued a notice to health care providers on June 9, 1995, stating that in accordance with Senate Bill 208, we would no longer be liable for such costs. After this notification was issued, it

was standard protocol to review any invoices from outside health care providers and return those that were for pre-existing or self-inflicted injuries or illnesses, to the provider and direct them to bill the individual. Those invoices for treatment where the facility or county was the direct or indirect cause were paid by the County. This practice continued for over 6 years. In January of 2002, a local health care provider challenged this protocol. We were advised by our attorneys, that we should "clean-up" the language in the statutes to clarify the intent.

In researching this issue, a few months ago, I discovered two states that had existing statutes that reflected the actual protocol we had been operating under. Those two states are Oklahoma and Wyoming. The exact language from those statutes has been used in the drafting of this Bill. Along with some language deletion to "clean-up" any conflicting interpretation, Senate Bill 370 reflects the actual intent that was passed and implemented in Yellowstone County in 1995.

The expending of Public Safety dollars on other than Public safety functions jeopardizes the safety of all our communities. It does not seem reasonable that because an individual chooses to commit a crime, the health care that is provided for them suddenly becomes the responsibility of law enforcement. It is our constitutional obligation to ensure that inmates receive appropriate medical care while in custody. The responsibility of payment for that care is not a constitutional issue, but a statutory one. Senate Bill 370 establishes that responsibility.

Undersheriff Kent Funyak
Cascade County

Senate Local Gov't. Comm.
Exhibit No. 3
Date 2-20-03
Bill No. SB 370

This bill addresses and defines changes needed to correct the on going financial burden of medical costs associated with incarcerated defendants in County Detention Centers.

Currently, the interpretation of this statute makes the County Detention Centers in Montana fully responsible for any and all medical costs associated with defendants accused of a crime and taken into custody. It does not hold the defendant accountable or financially responsible for medical conditions or injuries not caused by arrest or incarceration.

Pre-existing conditions such as: pregnancy, heart problems, diabetes, and the list goes on; become the financial burden of the County Detention Center once custody has taken place. These defendants may have been receiving medications and/or treatment before arrest, but the County Detention Centers become financially responsible for the prescriptions and treatment after arrest and custody take place even though these conditions were not caused by law enforcement or detention staff.

In essence, a person taken into custody for committing a crime gets free medical care and prescriptions by virtue of being arrested.

These costs are borne by Sheriff's Offices and County governments with tax money collected for Public Safety. With the diminishing budgets and increased costs of medical care, law enforcement officers are being removed from the streets.

Defendants should not be given carte blanche access to medical care strictly by virtue of custody. Medical conditions not caused by law enforcement or detention staff should not be funded with Public Safety tax monies. Financial responsibility should be determined without regard to custody. Who would be financially responsible for medical care received if the defendant was not in custody??

The taxpayers and voters of Montana don't want their Public Safety funds used for defendant medical care. I would invite you to contact your constituents to hear their adamant views on this issue. The law-abiding citizens of this State do not receive free medical care. Defendants in criminal cases certainly should not be entitled to free medical care simply because they are in custody.

Chief Captain Dan O'Fallon of the Cascade County Sheriff's Office and Captain Dennis McCave of the Yellowstone County Sheriff's Office have some statistics and anecdotal testimony which will exemplify the severity of this issue. Both of these Officers are the Detention Center Administrators for their respective counties.

Thank you for your attention and I would be happy to answer any questions.

144 County Inmates
44- w/ pre existing conditions which Require medications

23 w/ mental health issues which Require medication.

monthly cost for Preexisting medication needs
3500.00 per month.

MONTANA SENATE
2001 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 2-20-03

NAME	PRESENT	ABSENT	EXCUSED
SEN. JOHN BOHLINGER, CHAIR	X		
SEN. JOHN ESP, VICE CHAIR	X		
SEN. JERRY BLACK	X		
SEN. BRENT CROMLEY	X		
SEN. JIM ELLIOT	Y		
SEN. KELLY GEBHARDT	X		
SEN. BILL GLASER	X		
SEN. RICK LAIBLE	X		
SEN. JEFF MANGAN	X		
SEN. CAROLYN SQUIRES	X		
SEN. MIKE WHEAT	X		

DATE 2·20·03

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: SB 399, SB 406, SB 370

SB 372

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
MIKE MCMEEKIN	523-4810	Missoula Co. Sheriff's Dept.	SB 370	✓	
DENNIS McCove	256-6900	Yellowstone County Sheriff	SB370	✓	
DAN O'Fallon	454-6847	Cascade County Sheriff	SB370	✓	
KENT FUNYAK	454-6831	Cascade County Sheriff	SB370	✓	
KATHY FRAME	837-5024	FLATHEAD CO. SHERIFF	SB 370	✓	
Bob Driggers	862-0863	Flathead County Sheriff	HB 370		
Mark Rehbein	774-3328	Richland County	SB372		✓
Julie Jordan	354-6271	Garfield	SB372		✓
Bill Donaggle	336-2715	Glacier Co	SB323		✓
Ferris TOAVS	392-5226	Roosevelt Co	SB37		✓
Raynard N Dakes	873-4338	GLACIER CO	372		✓
Lee Iverson	429-2461	Petroleum Co	372		✓
John W Ray	226 9331	Glacier Co.	372		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Clifford H. Barge	Stillwater Co	372		✓
Eric Griffin	LOCC/MACLS	372		✓
LEO GALLAGHER	Lincoln/MCAA	370	✓	
John E Prunkl	Carbon Co/MACo	H06	✓	
Sam Hubbard	Powder R Co.	372		✓
Russ Tempel	Liberty Co	372		✓
Harvey Worrall	Chouteau Co	372		✓
Maureen Davey	Stillwater Co	372		✓
Ed Dumont	Liberty Co	372		✓
Ken Evans	Chouteau Co.	372		✓
Jack Casey	Rhodes Hospital	370		✓
Alec Hansen	Cities & Towns	370 372	Amend	✓
Jami McCall	City of Billings	370 372		✓
Jami McCall	Assoc Bldg Clinic	370		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Schellinger Geo Schmidt Const Co	Schellinger Const Co	372	X	
Robert Coffena	Musselshell Co.	372		X
Larry Lekse	Musselshell Co	372		X
RILEY JOHNSON	NFIB	372	X	
IN Mc Guire	Blakmith Const	372	X	
Kevin Wilusz	Blakoik Construction	372	X	
Vim Reno	Ye/ Co	372		X
" "	"	370	X	
SCOTT FARROW	PIONEER CONCRETE	372	X	X
Art Kleinjan	Blaine County	372		X
Dan L. Swenson	Blaine County	372		X
Elaine K. Allestad	Sweet Grass Co	372		X
Allan Underdal	Toole County	372		X
Howard W Gipe	Flathead County	372		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Rita Windom	Lincoln Co.	272		X
" "	"	270	X	
Gary Fitchstad	Rosebud Co.	272		X
" "	" "	270	X	
Carol Brooker	Sanders Co/MACo	272		X
" "	" "	270	X	
Janet Kelly	Custer Co.	270	X	
" "	" "	272		X
Kathy Bessette	Hill Co.	270	X	
" "	" "	272		X
Betty Aye	Powder River	272		X
Betty Aye	Powder River	270	X	
Mike Hunter	Custer Co	270	X	
Mike Hunter	Custer Co	272		+

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Steve McDonald	Smith Contracting, Inc Butte	372	X	
Bill McKelvey	LARCHE TRUCKING	372	X	
Arnold Gettel	Teton Co.	372		X
Kathy Kenyon	Deaconess Billings Clinic	370		X
Gary Macdonald	Roosevelt Co	372		X
Jim Shanks	Roosevelt Co	372		X
Carl Seilstad	Fergus County	372		X
Doug Kaercher	Hill Co/MACo	372		X
Byron Roberts	MT. Building Ind. Assn	372	X	
Mike Knodel	Rocky Mountain Road Maint	372	X	
Kenny Gray	Highway Superintendents	372	X	
Connie Eissinger	McCone County	372		X
DENNIS LAY	MONTANA ASSOC OF REGISTERED LAND SURVEYORS	406	X	
Don Judge	Teamsters Local 190	SB 372		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE Feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Dinah K McLeod	Butte Silver Bow	372		✓
Ed Mahoney	MACDNICD	372	✓	
Paul Thompson	Gilman Const	372	✓	
Bruce Bender	City of Missoula	372		✓
Tim Burton	City of Helena	372		✓
Don Kuglin	Lewis & Clark Co	370		✓
Thomas W. Nelson	Wibaux Co	372		✓
Lonnie Anderson	United Materials	372	✓	
Verdon Petersen	MACo	372		✓
Gordon Morris	MACo	372 370	✓	
Pat Melby	Mt Med Assn	370		✓
Ken Cornish	MACo	372		✓
Jan Christians	MACo	372		✓
Jack Knoer	MACRS	372		✓

VISITOR REGISTER

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REGISTER.F10

DATE Feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
John Flink	MHA	370		X
Cary Hegreberg	Contractors Assoc	372	✓	
Brad Griffin	MT Equipment Dealers Assoc	372	✓	
James R Durgan	Park Co. Comm.	370	✓	
James R Durgan	" " "	372	✓	
Joe Mazurek	City of Gt. Falls	372		X
Don Hargrove	Gallatin Co.	370	X	
Mona Jamison	Bozeman City	372		X
Webb Brown	Montana Chamber		X	
Clark Johnson	City of Bozeman	372		X
Tim Burton	City of Helena	372		X
Mike Halligan	Water Coop	399	informational	

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REGISTER.F10

DATE Feb 20, 2003

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Richard Umbar	Phillips Co	270	X	
" "	" "	272		X
Troy Blunt	Phillips Co.	270	X	
" "	" "	272		X
James C. Gilman	Gilman Const	372	X	
Don Steppler	Richland Co. Commission	270	X	
" "	" " "	272		X
Marc Schweitzer	ASARM	272	X	
John Prinkki	Carbon County	372		X
John Prinkki	" "	370	X	[illegible]
John Hansen Jr	COP Construction Co	372	X	
JD Lynch	Butte Silver Bow	372		X
Judy Jacobson	Butte Silver Bow	372		X
Tom Ebzery	SV, Holy Rosary, St Jose	370		X

VISITOR REGISTER

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REGISTER.F10

DATE Feb 20, 2003

SENATE COMMITTEE ON HB 372, 370, 399, 406

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
David Schultz	Butte-Silver Bow	372		—
Elaine Mann	Broadwater Co	SB370	✓	
Rich Dwyer	Butte Silver Bow	372		X
Walt Chronister	Butte Silver Bow	372		✓
Jean Pentecost	Butte-Silver Bow	372		✓
Jim McCarthy	Butte Silver Bow Co	372		✓
Jesska Eyde	Butte - Pioneer Tech	372	✓	
Jan Livesay	MT Lines, MCA	372	✓	
John Eyde	Pioneer Tech	372	✓	
Larry Brewster	Billings Cty	372		✓
Ray Becky	In Butte-No Bec Coast	372	✓	
Tim Crennen	JTL Group, Inc	372	✓	
Joel Long	JTL Group, Inc.	372	✓	
Mike Newton	Fisher Sand & Gravel	372	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Steve Anderson	Mont. Assn of Reg. Land Surv	406	X	
Chris Hafer	H & H Contracting Inc	372	X	
DAVE O'CONNELL	Public Employee Ld Labor Local 254	372		X
Glenn Gregor	Laborers Local #254	372		X
John Osthoff	Yellowstone County	372		X
Tom Schneider	MPEA SB	372		X
Chris Hanson	H&A Contracting.	372	X	
Mike ZEMLJAK	ZEMLJAK EXCAVATING INC	372	X	
Jean Curtiss	Missoula Co	372		X
J. GAIL PITTAD	Sanders Co	372		X
Cynthia Johnson	Ponder County	372		X
Anita Varone	Lewis & Clark County	372		X
Debby Fuller	LAKE County	372		X
RON PETERSON	Cent Concrete	372		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JOHN C. BOHLINGER**, on February 25, 2003 at 3:45 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. John C. Bohlinger, Chairman (R)
Sen. John Esp, Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Brent R. Cromley (D)
Sen. Jim ELLIOTTt (D)
Sen. Kelly Gebhardt (R)
Sen. Bill Glaser (R)
Sen. Rick Laible (R)
Sen. Jeff Mangan (D)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	SJR 25, 4/17/2003; SJR 26, 4/17/2003; SB 425, 4/17/2003; SB 368, 4/17/2003
Executive Action:	SJR 25; SJR 26; SB 425; SB 370; SB 372; SB 46; SB 396

Motion: SEN. LAIBLE moved that SB 425 DO PASS AS AMENDED.

Discussion:

SENATOR SQUIRES asked how **SENATOR GEBHARDT** could say the sanitarian in his area could do it in 15 days. She wondered what they were doing. She thought it was crazy.

SENATOR GLASER said if there was an expert on the committee it would be **SENATOR GEBHARDT** because he has dealt with these counties, and he would rely on his advice.

SENATOR SQUIRES said she was obligated to her city and her public officials. She was going to go by what they were telling her.

SENATOR GEBHARDT said fifteen working days allowed three full weeks. He thought that would be adequate. He felt for the planners from the rural areas. He thought that somebody who deals with a lot of these can do completeness check within that amount of time. He would still have the sixty days to finish the process.

SENATOR LAIBLE said he understood **SENATOR SQUIRES** frustrations and concerns. He said that Mike Kadas made the comment that he was not opposed to the time frames in the bill.

SENATOR ELLIOTT asked Mike Kadas to comment.

Mike Kadas said he was not opposed to the concept of a time frame. He maintained no one had the chance to look at the bill.

Vote: Motion failed 5-6.

Motion: SEN. ELLIOTTT moved that SB 425 BE INDEFINITELY POSTPONED AND THE VOTE REVERSED. Motion carried.

EXECUTIVE ACTION ON SB 370

Motion: SEN. GEBHARDT moved that SB 370 DO PASS.

Motion: SEN. GEBHARDT moved that AMENDMENT SB037002.ALK DO PASS.

Discussion:

SENATOR GEBHARDT said the issues with the bill were that the medical providers would be stuck with the bill for the services they provided. He said the amendment would allow at the end of 120 days they county becomes the payer of last resort. They pay at the medicaid rate. He said it also provides that if the medical provider gets paid after the county has already paid them, they reimburse the money to the county.

Vote: **Motion carried unanimously.**

Motion: **SEN. GEBHARDT moved that SB 370 DO PASS AS AMENDED.**

Discussion:

SENATOR GEBHARDT said there was another amendment.

Motion/Vote: **SEN. GEBHARDT moved that AMENDMENT SB 037001.ALK DO PASS. Motion carried unanimously.**

Motion: **SEN. GEBHARDT moved that SB 370 DO PASS AS AMENDED.**

Discussion:

{Tape: 4; Side: B}

SENATOR WHEAT said before the amendments, the bill provided a cost shift from the counties to the hospitals. He asked if the amendments took care of that.

SENATOR GEBHARDT said they took care of it at the end of 120 days.

SENATOR MANGAN said **SENATOR GEBHARDT** had worked hard with these folks to get the amendment done. He believed it was fair and equitable and still addressed some of the concerns the counties had regarding the detention centers. He urged everyone to vote yes.

Vote: **Motion carried 10-1 with CROMLEY voting no.**

EXECUTIVE ACTION ON SB 372

Motion: **SEN. ESP moved that SB 372 DO PASS.**

Motion: **SEN. MANGAN moved that SB 372 BE INDEFINITELY POSTPONED.**

MONTANA SENATE
2001 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 2·25·03

NAME	PRESENT	ABSENT	EXCUSED
SEN. JOHN BOHLINGER, CHAIR	✓		
SEN. JOHN ESP, VICE CHAIR	✓		
SEN. JERRY BLACK	✓		
SEN. BRENT CROMLEY	✓		
SEN. JIM ELLIOT	✓		
SEN. KELLY GEBHARDT	✓		
SEN. BILL GLASER	✓		
SEN. RICK LAIBLE	✓		
SEN. JEFF MANGAN			
SEN. CAROLYN SQUIRES	✓		
SEN. MIKE WHEAT	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 370** (first reading copy -- white) **do pass as amended**.

Signed: *Senator John C. Bohlinger, Chair*

And, that such amendments read:

1. Page 2, line 22.
Following: "(3)"
Insert: "(a)"

2. Page 2, line 23.
Strike: "inmate's third-party payor"
Insert: "detention center administrator may arrange with the health care provider to pursue reimbursement from a third-party payor for the services provided.

(b) If the health care provider is unable to collect from the third-party payor within 120 days from the date of the service, the county is responsible for reimbursing the health care provider for the services at the medicaid reimbursement rate.

(c) If the health care provider is reimbursed by the third-party payor after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate"

3. Page 3.
Following: line 24
Insert: "(c) If a municipality commits a person to the detention center of the county in which the municipality is located for a reason other than detention pending trial for or

Committee Vote:
Yes 10, No 1.

detention for service of a sentence for violating an ordinance of that municipality, then the county in which the municipality is located is responsible."

- END -

Amendments to Senate Bill No. 370
1st Reading Copy

Requested by Senator Kelly Gebhardt

For the Senate Local Government Committee

Prepared by Leanne Kurtz
February 20, 2003 (12:55pm)

1. Page 3.
Following: line 24
Insert: "(c) If a municipality commits a person to the detention center of the county in which the municipality is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that municipality, then the county in which the municipality is located is responsible."

- END -

Amendments to Senate Bill No. 370
1st Reading Copy

Requested by Senator Kelly Gebhardt

For the Senate Local Government Committee

Prepared by Leanne Kurtz
February 25, 2003 (12:37pm)

1. Page 2, line 22.
Following: "(3)"
Insert: "(a)"

2. Page 2, line 23.
Strike: "inmate's third-party payor"
Insert: "detention center administrator may arrange with the health care provider to pursue reimbursement from a third-party payor for the services provided.

(b) If the health care provider is unable to collect from the third-party payor within 120 days from the date of the service, the county is responsible for reimbursing the health care provider for the services at the medicaid reimbursement rate.

(c) If the health care provider is reimbursed by the third-party payor after the provider has been reimbursed by the county, the provider shall refund to the county the amount that the provider had been paid by the county for the services provided to the inmate"

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **VICE CHAIRMAN SCOTT MENDENHALL**, on April 1, 2003 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Rod Bitney (R)
Rep. Larry Cyr (D)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Penny Morgan (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: Rep. Mark Noennig, Chairman (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted:	SB284, SB 340, SB 343, SB 370, SB 393, 3/7/2003
Executive Action:	SB 112, SB 284, SB 340, SB 343, SB 370, SB 393, SB 246

of the issue addressed by the bill. **SEN. WHEAT** replied that he did not know.

Ms. Erickson informed REP. MAEDJE that it would be county property.

Closing by Sponsor:

SEN. KITZENBERG remarked that he was carrying out the wishes of the Eleanore Pratt the County Commissioner from his district. He stated that he did not see any major legal implications arising from passage of the bill. He concluded by indicating that there would be no fiscal impact created by the bill.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 20.7}

HEARING ON SB 370

Sponsor: SEN. KELLY GEBHARDT, SD 4, Roundup.

Opening Statement by Sponsor:

SEN. GEBHARDT stated that SB 370 provided that inmates would be responsible for payment of their own medical expenses while they were incarcerated. He further explained that if the inmates were unable to pay for these costs the county would then have to pay them.

SEN. GEBHARDT distributed copies of a proposed amendment to the Committee, attached as Exhibit 1, which he explained in detail.

EXHIBIT(loh69a01)

Proponents' Testimony:

Dennis McCave, Captain, Yellowstone County Sheriff's Office, stated that SB 370 had been originated to cleanup the language in SB 208 that had been passed in 1995. He explained that the purpose for the bill was to require inmates to pay for pre-existing and self-inflicted injuries while they were incarcerated in detention facilities. He informed the Committee that he had found the necessary language for clarification in already existing law in Oklahoma and Wyoming.

{Tape: 1; Side: A; Approx. Time Counter: 20.7 - 29.4}

Kathy Frame, representing Sheriff Dupont, Flathead County, stated that they supported SB 370. She expressed their opinion that

because someone was arrested they did not have the right to free medical care. She went on to discuss the Medicaid reimbursement rate and its affect on Flathead County.

Mike McMeekin, Sheriff/Coroner, Missoula County, spoke in support of SB 370. **Sheriff McMeekin's** written testimony is attached as Exhibit 2.

EXHIBIT(loh69a02)

Bill Kennedy, Yellowstone County Commissioner, expressed his support for SB 370. **Mr. Kennedy** explained that they would support either the proposed Medicaid reimbursement rate or a negotiated rate with the hospitals. He continued that either rate would help the counties with the cost of medical care.

Gordon Morris, Montana Association of Counties, discussed the fiscal note and the related savings should SB 370 pass.

Bob Olson, MHA, stated that they would support SB 370 with the condition that the amendment would be adopted.

Don Hargrove, Gallatin County, stated that they stood in strong support of the bill.

Jim Smith, Sheriff's Association, expressed support of SB 370.

Opponents' Testimony: None

Informational Testimony: None

{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.7}

Questions from Committee Members and Responses:

REP. MAEDJE and **Captain McCave** discussed Section 2, Page 2, Line 5 and Page 2, Line 16.

{Tape: 1; Side: B; Approx. Time Counter: 8.7 - 12.3}

REP. FORRESTER referred Captain McCave to an incident that had occurred in Billings where an individual had been shot by a local law enforcement officer and asked who would be responsible for the medical costs. **Captain McCave** replied that the individual would have been responsible as he had not been arrested for resisting

arrest until after he had been released from the hospital. **REP. FORRESTER** and **Captain McCave** further discussed the incident in Billings.

{Tape: 1; Side: B; Approx. Time Counter: 12.3 - 14.6}

REP. MENDENHALL and **Bob Olson** discussed Medicaid reimbursement issues.

{Tape: 1; Side: B; Approx. Time Counter: 14.6 - 17.5}

REP. MENDENHALL asked Captain McCave if the bill applied only to nonprofit hospitals or it for-profit healthcare providers could be involved with the bill. **Captain McCave** responded that any services they received from private pay facilities had to be paid for or they would not get the service. He continued that the bill was designed specifically for nonprofit healthcare providers.

REP. MENDENHALL asked Bill Kennedy about Page 2, Line 26 and it not distinguishing between nonprofit and for-profit healthcare facilities. **Mr. Kennedy** stated that a majority of the hospitals in the State of Montana are nonprofit. He went on to say that even those that are mainly for-profit have a portion of their facility that is nonprofit.

REP. MENDENHALL asked Mr. Kennedy if there was anything in the bill that would distinguish between a nonprofit or for-profit hospital. **Mr. Kennedy** replied that he was correct and explained why.

REP. LAWSON asked Mr. Kennedy to explain Subsection 6 on Page 3 as he considered it out of character. **Mr. Kennedy** deferred to Captain McCave for the answer. **Captain McCave** stated that there was no question it was out of character.

Closing by Sponsor:

SEN. GEBHARDT recommended that the Committee concur in SB 370 and also concur in the amendments.

{Tape: 1; Side: B; Approx. Time Counter: 17.5 - 24.1}

REP. MENDENHALL and **REP. DEVLIN** further discussed the petitions for zoning and the percentages involved in the process.

Vote: **Motion that SB 343 BE CONCURRED IN AS AMENDED failed 7-9 by roll call vote with REPS. BITNEY, DEVLIN, HAWK, MAEDJE, OLSON and MENDENHALL voting aye and REP. MORGAN voting aye by proxy.**

Motion/Vote: **REP. LASLOVICH moved THAT THE VOTE BE REVERSED AND SB 343 BE TABLED. Motion carried unanimously by those members present.**

{Tape: 5; Side: A; Approx. Time Counter: 0 - 8.4}

EXECUTIVE ACTION ON SB 370

Motion: **REP. LASLOVICH moved that SB 370 BE CONCURRED IN.**

Motion: **REP. HAWK moved that SB 370 BE AMENDED.** See attached Exhibit 1.

Motion: **REP. FORRESTER moved AMENDMENT NUMBER 4 OF SB 370 BE SEGREGATED.**

Discussion:

REP. FORRESTER remarked that he felt 85% was too high and they should insert 75% for the Medicaid reimbursement rate or which ever is higher.

REP. MENDENHALL asked REP. FORRESTER to explain what he was trying to do procedurally. **REP. FORRESTER** responded that he wanted to strike the "85%" and insert "70%."

Connie Erickson stated that what she felt was being proposed was that the language would read, "the Medicaid reimbursement rate or 70% of the providers customary charges, whichever was greater."

REP. BITNEY and **REP. FORRESTER** discussed whether or not Number 4 of the amendment needed to be segregated in order to make the change.

Vote: **Motion THAT AMENDMENT 4 of SB 370 BE SEGREGATED carried unanimously by those members present.**

Motion/Vote: **REP. RASER moved AMENDMENTS 1, 2, 3 AND 5 OF SB 370. Motion carried 14-0 by voice vote with REPS. CYR and JACOBSON voting aye by proxy.**

Motion: REP. FORRESTER moved AMENDMENT 4 of SB 370.

Discussion:

Ms. Erickson explains where the amendment would occur and how it would read. She stated that following "Medicaid reimbursement rate" the phrase "or 70% of the providers customary charges, whichever is greater" would be inserted.

REP. LAWSON expressed his concern that they had left out the negotiated rates portion.

Bob Olson responded that they had agreed to leave three options open to pay the claims. One would be the greater of Medicaid rates or 70% of the customary charges. He went on to say that a third option had been agreed to and that was the negotiated rate. He explained that the reason for that option was that the customary charge and Medicaid rate would take care of the hospitals and the negotiated rate would take care of the other medical providers.

REP. OLSON and **Mr. Olson** further discussed how the payment options would work in dealing with the medical providers.

REP. MENDENHALL expressed his thoughts regarding the amendment and its relationship to medical providers.

REP. FORRESTER stated that private medical providers would be paid their full rate unless a negotiated contract had been entered into.

Vote: Motion that AMENDMENT 4 TO SB 370 BE CONCURRED IN carried 13-1 by voice vote with REP. LASLOVICH voting no and with REPS. CYR and JACOBSON voting aye by proxy.

Motion/Vote: REP. DEVLIN moved that SB 370 BE CONCURRED IN AS AMENDED. Motion carried 16-0 with REPS. NOENNIG, MORGAN, CYR and JACOBSON voting aye by proxy.

REP. FORRESTER will carry SB 370 on the floor of the House.

{Tape: 5; Side: A; Approx. Time Counter: 8.4 - 22}

EXHIBIT 1
DATE 4-1-03
SB 370

Amendments to Senate Bill No. 370
3rd Reading Copy

Requested by Senator Kelly Gebhardt

For the House Local Government Committee

Prepared by Leanne Kurtz
April 1, 2003 (8:59am)

1. Page 2, line 10.
Following: "If"
Strike: "," through "administrator,"

2. Page 2, line 22.
Following: "costs"
Insert: ", as provided in subsections (1) and (2)"

3. Page 2, line 26.
Following: "FROM THE"
Insert: "inmate or"

4. Page 2, line 28.
Strike: "THE MEDICAID REIMBURSEMENT RATE"
Insert: "a negotiated rate or at a rate that is not less than 85% of the provider's customary charges"

5. Page 3, line 5.
Following: "expenses"
Insert: "and the provisions of this section apply"

- END -

EXHIBIT 2
DATE 4-1-03
SB SB 370

58th LEGISLATIVE SESSION - 2003
HOUSE LOCAL GOVERNMENT COMMITTEE

Testimony of: **Mike McMeekin, Sheriff/Coroner, Missoula County**

Date: **Tuesday, 01 April, 2003**

Bill Number: **SB370** **Position Taken:** **Support**

- Indigent medical care is primarily a social issue, not a criminal justice one.
- As a general statement, the circumstances of an individual's temporary housing should not make the host liable for that individual's medical expenses for conditions beyond the host's control.
- Just because the "host" is a county jail doesn't necessarily mean that the detaining county or arresting agency should be responsible for medical costs incurred due to illness, injury or other medical condition beyond our control.
- SB370 clearly acknowledges this premise and has been crafted to provide a reasonable balance between: 1) Protection of the prisoner's right to essential medical care, and 2) Local government's obligation of fiscal responsibility.
- **Examples:**
    - During the first 7 months of FY03, the Missoula County Sheriff's Department has paid **$185,477** for outside medical care and prescriptions for adult prisoners in the county jail. That averages **$5.08 per inmate per day.** These totals do not include the costs of transporting and guarding prisoners while they are outside the detention facility.
    - These figures do not include any costs of in-house medical care which includes a physician, physician's assistant, dentist, registered nurse (all part-time), an LPN staff providing coverage 16 hours per day, clinic and dental supplies. Our FY03 budget for these expenses is **$258,329**. If the facility was at capacity every day of the year, that would equate to another **$1.81 per inmate per day**.
    - Last year a pregnant county prisoner delivered her child while in custody. Government costs, including medical expenses plus security while she was in the hospital, were $6,976.49 (not including costs of in-house care and treatment).

HOUSE OF REPRESENTATIVES
Roll Call
LOCAL GOVERNMENT COMMITTEE

DATE 4-1-03

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK NOENNIG, CHAIRMAN			✓
REP. SCOTT MENDENHALL, VICE CHAIR MAJORITY	✓		
REP. EILEEN CARNEY, VICE CHAIR MINORITY	✓		
REP. ARLENE BECKER	✓		
REP. ROD BITNEY	✓		
REP. LARRY CYR	✓		
REP. RON DEVLIN	✓		
REP. GARY FORRESTER	✓		
REP. RAY HAWK	✓		
REP. HAL JACOBSON	✓		
REP. JESSE LASLOVICH	✓		
REP. BOB LAWSON	✓		
REP. PENNY MORGAN	✓		
REP. RICK MAEDJE	✓		
REP. ALAN OLSON	✓		
REP. HOLLY RASER	✓		

/s/LocalGovRollCall.2003

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 370** (third reading copy -- blue) **be concurred in as amended.**

Signed: Scott Mendenhall
Representative Scott Mendenhall, Vice Chair

To be carried by Representative Gary Forrester

And, that such amendments read:

1. Page 2, line 10.
Following: "If"
Strike: "," through "administrator,"

2. Page 2, line 22.
Following: "costs"
Insert: ", as provided in subsections (1) and (2)"

3. Page 2, line 26.
Following: "FROM THE"
Insert: "inmate or"

4. Page 2, line 28.
Following: "AT"
Insert: ": (i)"
Following: "RATE"
Insert: "or at a rate that is 70% of the provider's customary charges, whichever is greater; or
(ii) a negotiated rate"

Committee Vote:
Yes 16, No 0.

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5. Page 3, line 5.
Following: "expenses"
Insert: "and the provisions of this section apply"

- END -

COMMITTEE ABSENTEE BALLOT

DATE: April 1, 2003

I hereby authorize Rep. Cerney

to cast my vote(s) as follows:

~~to keep table SB 112 - yes~~

SB 11203 yes

SB 112 yes

SB 24601 - yes

SB 246 - yes

SB 284 yes

SB 340 - 1 yes

SB 340 - Conceptional - yes

SB 340 - yes

SB 343 - Table - yes

SB 343 - amendment - yes

SB 343 - No

SB 37003 - yes

SB 37004 yes

SB 370 yes

SB 393 yes

Representative [signature]

S:\ABSENTEE BALLOT2003.wpd

COMMITTEE ABSENTEE BALLOT

DATE: April 1, 2003

I hereby authorize Rep. Carney
to cast my vote(s) as follows:

~~to be off table SB112 yes~~

SB 11203 yes
SB 112 yes
SB 24601 yes
SB 246 yes

SB 284 yes
SB 340-1 yes
SB 340 - conceptual - yes
SB 340 - yes
SB 343 - table - yes
SB 343 - amendment - yes

SB 343 - No
SB 37003 - yes
SB 37004 - yes
SB 370 yes
SB 393 - yes

Representative Larry Cy

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Montana House of Representatives
Visitors Register

LOCAL GOVERNMENT COMMITTEE Date 4-1-03

Bill No. SB 370 Sponsor(s) Sen. Debrandt

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Dennis McCann, Billings	Yellowstone	X		
KATHY FRAME FLATHEAD	COUNTY	X		
Don Hargrave Bozeman	Gallatin Co	X		
Gordon Morris	MACo	X		
Jim Smith	Sheriff's Asso	X		
Mike McMeekin	Missoula County	X		
Mona Jamison	Gallatin City	X		
Bill Kennedy	Yellowstone Co	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.